

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 498/97.

Date of Decision: 18.11.1997.

Shri B. N. Tahiliani,

Applicant.

None.

Advocate for
Applicant.

Versus

Union Of India,

Respondent(s)

Shri R. R. Shetty for
Shri R. K. Shetty,

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. B. S. Hegde, Member (J).

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- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?


(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 498/97.

Dated this Tuesday, the 18th day of November, 1997.

CORAM : HON'BLE SHRI B. S. HEGDE, MEMBER (J).

B. N. Tahiliani
(Ex. SO/SD, RAPS),
(Department of Atomic Energy)
residing at -
102, Neptune Apartments,
O.T. Section,
Ulhasnagar - 3,
Dist. Thane.

... Applicant

(None for the applicant)

VERSUS

Union Of India through
The Secretary,
Department of Atomic Energy,
Anushakti Bhavan,
C.S.M. Marg,
Mumbai - 400 039.

... Respondents.

(By Advocate Shri R. R. Shetty for
Shri R. K. Shetty)

:: ORAL ORDER ::

PER.: SHRI B.S. HEGDE, MEMBER (J)

None present on behalf of the applicant.

Heard Shri R.R. Shetty for Shri R. K. Shetty, Counsel for
the respondents. In the absence of the counsel for the
applicant, the Counsel for the respondents has been asked
to go through the pleadings.

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2. The only prayer made in this O.A. is to give direction to the respondents to add five years to the qualifying service of the applicant for the purpose of superannuation pension and also to grant all other consequential benefits as per Rule 30 of the C.C.S. Pension Rules.

3. The applicant was initially appointed as Foreman (Machine) in the Rajasthan Atomic Power Station under the Department of Atomic Energy w.e.f. 21.08.1971 pursuant to the advertisement given by the respondents. Thereafter, he was promoted as S.O./S.D. with effect from 01.08.1993 and superannuated from service w.e.f. 30.04.1994 after rendering 23 years of service.

4. Prior to the appointment of the applicant in the respondents department, the applicant was working with Heavy Electrical (India) Ltd., Bhopal, and rendered 12 years of service. On the basis of the advertisement given by the respondents for the post of Foreman, the applicant applied for the same and he was selected. At the time of joining, the respondents department, he was aged 37 years. When enquiry was made to the Learned Counsel for the respondents whether the applicant had made any request to the department at the time of entry

into service that his previous service should be counted for the purpose of pensionary benefits, the Learned Counsel for the respondents submitted that no such request was made by the applicant at the time of entry into service. Further, it is submitted by the Counsel for the respondents that even if the applicant had made any such request, the said services cannot be counted for the purpose of pensionary benefits, as there is no such provision in the recruitment rules/instructions of the department. The respondents vide their reply dated 04.10.1991 had intimated the N.P.C.I.L., under whom the applicant was working, that the applicant had made a request to the authorities to count his previous service for the purpose of pensionary benefits, to which the department replied stating that the request for counting of past services rendered by the applicant in B.H.E.L. cannot be agreed to, as there is no provision available under the C.C.S.(Pension) Rules, 1972.

5. Further, the respondents in their reply have categorically stated that Rule 30 envisage in a different context. The first requirement is that the post of which the Government servant is appointed is one for which post graduate research or specialist qualification or experience in scientific technological or professional fields is essential. In the instant case,

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the applicant is only a matriculate with diploma holder and possessed the requisite experience when he was appointed to the post of Foreman. However, as per the qualification prescribed by the respondents-department, this cannot be considered as a post-graduate qualification. Secondly, that should be a post of which a candidate of more than 25 years of age are normally recruited. The intention of the Government in underlying Rule 30(1) is to compensate a Government Servant for the time taken by him in securing the specialist qualifications or experience which are essential for appointment to the post to which he is appointed. The qualifications and experience which are prescribed in the present case do not indicate that they would normally take so much time that any candidate who possess such qualifications and experience would be normally more than twenty-five years in age.

6. It is noticed that the applicant has ^{not} made any request at the time of his appointment that his previous service should be counted for the purpose of pensionary benefit and Rule 30 of the C.C.S(Pension) Rules and the Recruitment Rules specifically states that the benefit of adding five years to the qualifying service for pensionary benefits can be extended to only

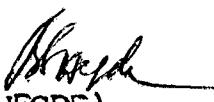
those post which require post graduate research or specialist qualification or experience in scientific, technological or professional fields and to which post candidates of more than 25 years of age are normally recruited. It is true that there is no statutory rules in recruiting the post of the applicant and so far as the department is concerned, the administrative guidelines/instructions were prevalent at the time of his appointment, which does not provide for any such contingencies.

7. In the absence of any such benefit available to the applicant at the time of his appointment, he cannot now seek the benefit of Rule 30 of C.C.S. (Pension) Rules after his retirement. Admittedly, the applicant is a matriculate with diploma holder and not a highly qualified person, as is required under Rule 30 of the C.C.S.(Pension) Rules. On the basis of the advertisement given by the respondents, the applicant had applied for the same and had been appointed. It is not the case of the applicant that he could not enter the service because of his higher education and he could not join the service before 25 years of age. Therefore, the reply given by the respondents that the benefit under Rule 30 of the C.C.S. (Pension) Rules cannot be extended to the applicant is just and fair and cannot be faulted with.

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8. In the facts and circumstances of the case, I am of the view, that the decision taken by the respondents vide letter dated 23.01.1996 is in accordance with the rules and is fully covered by the decision of the Apex Court in the case of Council Of Scientific and Industrial Research, New Delhi & Another V/s. M.V. Sastry & Another [AIR 1997 SC 3244] wherein the Apex Court considered the similar issue and rejected the contention of the respondents. The present case squarely falls within the ratio of the decision of the Apex Court referred to above. Therefore, the stand taken by me is fully covered by the decision of the Apex Court referred to above, wherein a similar issue was considered and rejected,

9. In the result, I do not find any substance in the O.A. and the same is liable to be dismissed. Accordingly, the O.A. is dismissed with no order as to costs.


(B.S. HEGDE)
MEMBER (J).